

Senate Bill 294

By: Senators Murphy of the 27th, Thomas of the 54th and Hill of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated,
2 relating to prescription drugs, so as to change criteria for substitution of generic drugs for
3 brand name drugs; to provide for related matters; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to
8 prescription drugs, is amended by revising Code Section 26-4-81, relating to substitution of
9 generic drugs for brand name drugs, as follows:

10 "26-4-81.

11 (a) In accordance with this Code section, a pharmacist may not substitute a drug without
12 the express authorization of the prescribing practitioner; and when such authorization is
13 given, the pharmacist shall dispense with the same generic name in the same strength,
14 quantity, dose, and dosage form as the prescribed brand name drug product which is, in the
15 pharmacist's reasonable professional opinion, pharmaceutically equivalent.

16 (b) If a practitioner of the healing arts prescribes a drug by its generic name, the
17 pharmacist shall dispense the lowest retail priced drug product which is in stock and which
18 is, in the pharmacist's reasonable professional opinion, pharmaceutically equivalent.

19 (c) Substitutions as provided for in subsections (a) and (b) of this Code section are
20 authorized for the express purpose of making available to the consumer the lowest retail
21 priced drug product which is in stock; authorized by the prescribing practitioner; and which
22 is, in the pharmacist's reasonable professional opinion, both therapeutically equivalent and
23 pharmaceutically equivalent.

24 (d) Whenever a substitution is made, the pharmacist shall record on the original
25 prescription the fact that there has been a substitution and the identity of the dispensed drug

1 product and its manufacturer. Such prescription shall be made available for inspection by
2 the board or its representative in accordance with the rules of the board.

3 (e) The substitution of any drug by a registered pharmacist pursuant to this Code section
4 does not constitute the practice of medicine.

5 (f) A patient for whom a prescription drug order is intended may instruct a pharmacist not
6 to substitute a generic name drug in lieu of a brand name drug.

7 ~~(g) A practitioner of the healing arts may instruct the pharmacist not to substitute a generic
8 name drug in lieu of a brand name drug by including the words "brand necessary" in the
9 body of the prescription. When a prescription is a hard copy prescription drug order, such
10 indication of brand necessary must be in the practitioner's own handwriting and shall not
11 be printed, applied by rubber stamp, or any such similar means.~~

12 ~~(h) The substitution of any drug by a registered pharmacist pursuant to this Code section
13 does not constitute the practice of medicine."~~

14 **SECTION 2.**

15 All laws and parts of laws in conflict with this Act are repealed.